

SPEECH

OF

HON. C. E. STUART, OF MICHIGAN,

ON THE

LECOMPTON CONSTITUTION,

AND THE REPORT OF THE

COMMITTEE OF CONFERENCE.

DELIVERED IN THE SENATE OF THE UNITED STATES, APRIL 28, 1858.

The Senate having resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses upon the bill (S. No. 161) for the admission of the State of Kansas into the Union—Mr. STUART said:

Mr. PRESIDENT: The important subject growing out of the admission of Kansas as a State into this Union, is again presented to the consideration of the Senate through the report of the committee of conference. While there are certain preliminary questions respecting the authority of the Senate to consider that matter, until the bill has been returned to us by the House of Representatives, I propose for the present to pass over those, and to consider the immediate subject before us.

It seems to me indispensable to a fair understanding of the question now presented that we should recur to the history of this transaction, and see what has been done heretofore. In doing so at this time, I feel it incumbent on me to say that, while I shall treat the members of the committee with that respect which I feel for them individually, and which is due to them as members of this body, I shall treat their report according to the rules of interpretation, and I shall insist that they mean by that report precisely what will be, in my judgment, its necessary consequences.

Sir, about two years ago, so far as the action of the majority of the Senate was concerned, we determined that Kansas might be admitted into the Union. We determined at that time, that so far as the question of population was concerned, there were such circumstances incident to the existence of this Territory, and the character of its people, as to make it expedient and proper that they might form a constitution, organize themselves as a State; and at that time be admitted into the Union. When we came here at the commencement of the present Congress, we found that the people of Kansas, acting, as it is said, through a convention, had prepared a constitution, had partially organized a State government, and had demanded admission into the Union as a State under it. Upon the announcement of this fact by the President of the United States, I deemed it

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my duty to say that, in my judgment, such had been the conduct of that convention, so completely had it set at defiance the provisions of the organic act of the Territory, so completely had it attempted to overturn the principles of self-government, so enormously had it concocted a fraud, and sought to fix that fraud upon the people, that I never could, and never would, agree by my vote to aid in carrying out that effort.

But, sir, at a later day, the constitution was received; was submitted to the Senate. It was referred to the Committee on Territories. When it came back here we found this remarkable fact, which becomes an important consideration in determining upon the question of the report of the committee of conference to-day. The first copy of that constitution, which was authentically published, was published in the Washington Union, and was said to have been obtained from the President of the United States; and when that constitution was published, this land ordinance was the the first division in order in the instrument, and it appeared to be a component part of it. In connection with that question, let me quote from the certificate attached to the ordinance itself:

The within is a true and perfect copy of the ordinance adopted by the constitutional convention, and submitted as part of the constitution by the convention which assembled at Lecompton on the 6th day of September, A. D. 1857.

JOHN CALHOUN,

President Constitutional Convention.

LECOMPTON, KANSAS TERRITORY, January 14, 1858.

There we have the fact, the only evidence we had, to wit: the certificate of the president of the convention, John Calhoun, that this paper, on which we have been acting, is, in fact, the constitution made by the Lecompton convention—was equally conclusive to show that that convention submitted, as a part of the constitution, the ordinance which accompanied it; and yet we find that the Committee on Territories, in their report, come to this conclusion:

"The committee do not approve the ordinance accompanying the constitution, and report against its allowance; but they do not regard it as any part of the constitution, nor will its approval or disapproval by Congress affect the validity of that constitution if the State be admitted into the Union as recommended."

Now, sir, I call the attention of the Senate to this important posture of affairs. Acting upon the report and judgment of that committee, the Senate proceeded to consider the bill which they reported. They adopted the opinion contained in the report, that the ordinance was no part of the constitution, and that the constitution would be in no wise affected if the State were admitted into the Union under it, though we disapproved and disavowed the ordinance. That bill was sent to the House of Representatives. The House of Representatives refused to pass it. There was ascertained to be a decided, fixed, unalterable majority of the House of Representatives against that bill; but they sent us instead of it a proposition of their own, a plain, just, fair proposition, one which it became Congress to make, and would be becoming the people of Kansas to receive and act upon. It came here. The Senate refused to take it, and sent it back to the House of Representatives; the House adhered to their original position, and a committee of conference was finally agreed to between the two Houses.

Now, what do they say? I ask that question here to-day, and I shall be obliged to any member of the committee, or to any advocate of their report, if they will answer me some of the questions which, in the course of

my remarks, I shall ask. I repeat again, Mr. President, what do the committee say? That there is a difference of opinion between the two Houses as to whether the constitution reflects the will of the people or not, as to the propriety of whether it should be submitted to the people in order to determine whether it is their will and their constitution? Not a word of it. Will any member of the committee, or of this body, tell me that there has been any other dispute between the two Houses than that? I beg leave to repeat the question, sir; for I desire it somewhere to be answered: will the committee, or any advocate of its report, tell me that there has been any dispute between the two Houses, except as to the question whether this constitution was fairly made, and whether it really and truly reflected the will of the people of Kansas? That is the only question upon which the two Houses have been differing.

But what says our committee? They say it is important to determine a question upon the ordinance. I would like to ask a member of the committee. I would like to ask an advocate of their proposition, where did you learn that there was a dispute in Congress, or in Kansas, about the ordinance? Where is the information that the people of Kansas are disputing with the proposition of the Committee on Territories of this body, as to the amount of land they shall have? Who has heard it, and from whence did he hear it? Who has heard the question mooted in the Senate? Who has heard it mooted in the Hall of the House of Representatives? Has a man in the broad domain of the United States raised a dispute upon this topic? Not a living man.

Sir, I alluded to it in the first speech I made here for a purpose which is pertinent to-day. I alluded to it as a part of the plan of that convention to bribe the people of Kansas. By this plan, if it was found impossible to seduce a majority of Congress, that convention might hope that the people of Kansas, if they could get \$30,000,000 worth of land, might be willing to take this constitution. Before I made my speech in December last, the acting chairman of the Committee on Territories (Mr. GREEN) made a speech in reply to the honorable Senator from Illinois, (Mr. DOUGLAS;) and what did he say? He said:

"The ordinance that accompanies the constitution is held by some to be extravagant in its demands on the Federal Government. It may or may not be so. Whether it be right to accede to the proposition submitted in the shape of an ordinance or not, I shall not now stop to discuss; for I hold that it is no part of the constitution of Kansas. It is a separate proposition presented by the convention of Kansas, and it is a matter of contract with the Federal Government whether we accede to it or not. We may disaffirm that contract. In other words, it is a *proposition*, and we may make a counter-proposition. It is a matter for consideration, for adjustment; and it is no branch or part of the constitution of the State."

I have said that the president of the convention certifies to us that it is; and that the convention at Leecompton made it a part of the constitution; and that we have no better evidence of the constitution itself than we have of this fact. But, sir, I care not which way it is settled. I say again that, from the time this measure was introduced into Congress down to to-day, there has not only not been no dispute between the two Houses, but there has been no dispute between any members of Congress, as to whether we should give one or the other of these land propositions. And yet the conference committee comes here and tells us that they have deemed it desirable to submit to a vote of the people of Kansas, the question whether they will take the same land donations that we made to the State of Minnesota in the bill for the admission of that State into the Union.

By what authority, I say, do they tell us that story, and upon what ground is it founded? They tell us that that is the only question submitted. The Senator from Virginia, (Mr. HUNTER,) and the Senator from Missouri, (Mr. GREEN,) both affirmed in their places yesterday that there was no submission of the Lecompton constitution to the people of Kansas. The Senator from Virginia said he never had agreed, and he never would agree, to submit to the people of Kansas the Lecompton constitution by an act of Congress; and yet, both of these Senators tell us, the bill which they have presented tells us, that if the land proposition fails, the constitution fails, and they are not admitted as a State into the Union; but, if the people, by a vote, agree to the land proposition, then the President is to issue his proclamation, and proclaim the State in the Confederacy.

Now, sir, let me state to the Senate a perfect illustration of this doctrine. When the trapper sets his trap to catch the fox, or the angler baits his hook for the fish, he says to the fox, "I do not propose to catch your head in that trap; the question whether you will put your head into it or not is not presented; but the only question is whether you will eat the bait." So of the angler. He says, "I have no idea, Mr. Fish, that you will fasten this hook into your gills—not at all; the proposition that I submit simply is, will you swallow the bait?—that is all." We do not say to the people of Kansas that their votes shall have any effect at all upon the constitution made at Lecompton; we deny that. I would not, says the Senator from Virginia, agree to any such proposition as that at all; but, I will say to them, that just as you vote on the land ordinance so is the result upon the constitution.

Now, Mr. President, is that a proposition which it becomes a Congress representing thirty million people to make? Is it a proposition that it becomes the descendants of those who fought at Bunker Hill and Yorktown to agree to? Never, sir. It is a despicable proposition. It is a proposition worse than that of the thimble-rigger, for he allows you to bet on which thimble the ball is under. He makes a direct proposition. He does not say to you, "let the thimble which we both know to have nothing under it test the question whether it is under the next one or not." Sir, such a mode of conduct, I repeat, is despicable on the part of the Congress of the United States.

What, then, is the plain object of this proposition? It was ascertained, as I said, that a majority of the House of Representatives could not be obtained for the Senate bill. What was the reason? Because a majority of the House insisted that it should be submitted to a vote of the people of Kansas to say whether this is such a constitution as they wish, and whether it reflects their will. But the Senate of the United States was not willing to come to that doctrine. How, then, was the fact? The dispute, I say, was upon the question of submission, and hence the committee set to work to make a Janus-faced proposition—one, which, in the South, by southern Democrats, should be declared to be no submission of the constitution to the people of Kansas at all; it should be denied there as it is denied to-day by the Senators from Virginia and Missouri, constituting a majority of the Senate committee; and which, in the North, could be insisted upon as a submission of the constitution to the people of Kansas, and for which you might get the northern anti-Lecompton Democrats in the House to vote, because it is a submission; and get the Southern Lecompton Democrats to vote for it because it is not a submission. Sir, like that celebrated hunter, who aimed to kill the animal if it was a deer, and miss it if a calf, you say

to the members constituting the two bodies of Congress to-day, if you are true game, and vote to reject this proposition, it will kill you whether you live North or South; but if you vote for it, you will be a living calf all the days of your life. No matter in what section of this country you reside, if you vote for the measure there is no danger; because, at the South, we insist it is not submitted; and at the North, we insist that it is; vote against it, and we will charge you in the South with being false to our interests; we will charge you in the North with voting against the only means provided to ascertain the will of the people upon the constitution itself. That is the English of it.

There will be very few gentlemen in Congress deceived or misled upon this subject; there will be very few persons in the States of the Union who will be misled by it; and there will be none at all in the Territory of Kansas. The people of Kansas, like every other patriotic, honest people, will indignantly set their heel upon it; and let me tell you why. I speak not this, Mr. President, in the spirit of prophecy; I speak it in the face of history. The vote of the 4th of January in Kansas was a vote taken before the question was presented here; it was taken upon the constitution as the Lecompton men made it, with every one of these enormous land grants in it; and the people pronounced against it by a majority of ten thousand and more. After having this bantling here in Congress; after kicking it about between the two Houses, and then sending it back with the proposition reduced, as the Senator from Missouri says, from thirty million acres to about four million, do you suppose that you have any better prospect of success? No, sir. I say the people of Kansas will indignantly set their heel upon it.

Let me inquire how Congress stands on this question to-day. I affirm that the bill reported by this committee, by way of amendment, falsifies every argument which the advocates of the Senate bill urged for its passage. They said that the Lecompton convention had a right to say, and nobody had a right to question it, whether the constitution should be submitted to the people or not, and as they said, so it must ever remain; and yet this bill actually places it in the power of the people of Kansas to kill the instrument by a vote at the polls. More than that, sir, this bill provides, that if the people of Kansas reject this proposition, they shall not make another for admission into this Union until they have population sufficient, according to the ratio of representation, to entitle them to a member in the House. But, further, it says that the Legislature of Kansas, when proceeding to take the initiatory steps for a new constitution, shall act "in conformity with the Federal Constitution, subject to such limitations and restrictions as to the mode and manner of its approval or ratification by the people of the proposed State as they may have prescribed by law, and shall be entitled to admission into the Union as a State under such constitution thus fairly and legally made, with or without slavery, as said constitution may prescribe."

Here the very advocates of the Lecompton constitution, upon the ground that the convention had the sole power to determine the question of submission or not, come in, and say that the next convention shall take such directions as the Legislature convening them shall make. What, then, becomes of the ground upon which they advocate this constitution?

MR. PUGH. I wish to correct the Senator if he will allow me.

MR. STUART. Certainly.

MR. PUGH. The ground taken, was that, inasmuch as the act under

which the delegates were elected contained no provision at all on the subject, therefore, the question was entirely within the discretion of the convention.

Mr. STUART. I am stating the grounds which the general advocates of this measure presented to the Senate. I know that, if you undertake to analyze all the arguments that were made by the supporters of the Senate bill, you would find no two of them, scarcely, standing upon the same ground. But I proceed now, in connection with this, to another proposition, based upon the great doctrine of non-intervention; and it was this: that you had said to the people of Kansas, in their organic act, that they should proceed to form a constitution and State government in their own way. That was the language of the honorable Senator from Missouri in his first speech—that Congress had no right to provide the way; that they were at liberty to take their own way; yet, sir, in this bill you say that they shall only do it by a law of their Legislature; and that that law shall provide the mode, and manner, and time, of submitting the constitution to the people. I should like to know if that is non-intervention?

What further, Mr. President? The advocates of the Senate bill said that it was not of so much consequence how this thing was settled, as it was that it should be promptly settled. That is the great argument of the President: admit the State, no matter how, and you have ended all controversy about it. This bill says that, if the people of Kansas do not take this Lecompton constitution, they shall make none, shall have none, shall be no State until they have a sufficient population to entitle them to a member of the House of Representatives. What, then, becomes of the "speedy" argument for the settlement of this question.

What next? It was important to take it out of Congress. Well, sir, we have been taking this subject out of Congress ever since I have been in; and the more we have taken it out, the more we have taken it into Congress. What is the result here if the people reject this constitution? Cannot they make another application to Congress the next day, or at any time when they please, and is it not perfectly competent for Congress to repeal this law and admit them? Who denies it? If the very next Congress chooses to admit Kansas under a constitution that she shall make, who can prevent it? No power on earth. Then you will have the question presented to Congress continuously, debated here, the country agitated, until it is finally disposed of.

How beautifully does the House bill compare with this miserable proposition of the committee of conference. That proposition said to the people of Kansas, "vote as you like upon this constitution; if you vote in favor of it, very well, the President proclaims you a State in the Union; if you vote against it, proceed to form the one you do wish, and come immediately and promptly into the Union," and that, too, without the action of Congress. There was a proposition which met the argument of the advocates of the Lecompton constitution. There was a proposition that was fair to every section of the country; and more than that, sir, for the first time in the history of legislation upon the subject of Kansas, it was fair to the people of Kansas.

But, sir, what does this proposition say? Is there a Senator within the hearing of my voice to-day who believes, if this land measure was separately submitted to the people of Kansas, disconnected from any other question, that there is a man in Kansas who would vote against it? Not a man. There is not a Senator, nor a Member of the House of Representatives, who

supposes that this land donation would receive a negative vote in the whole Territory of Kansas. Look now, sir, at the miserable trick contained in the substitute of the committee. That says to the people, if you vote upon a subject upon which you have no two opinions, a subject which you are all for, we think, there is a better chance of getting you to put the hook into your mouth, or put your head into the trap, than if you voted upon the trap or the hook itself. Yet the Senator from Virginia said, with something of astonishment, not to say indignation, that this was no threat to the people of Kansas. Sir, I affirm, in my place here to-day, that it is, and is a threat of the most objectionable character. It compares unfavorably with the attempt of the Lecompton convention. The attempt of that convention had the merit of boldness, of audacity, of desperation; it spoke in open daylight, and said to the people of Kansas, you shall have no power to reject this constitution, because, if we give you the power to do so, we know you will reject it; but this is an attempt to wheedle, to cajole, first the anti-Lecompton men in Congress, and next the people of Kansas. Not a threat, sir? What is an election? Is it not the free, unembarrassed, and unbiased choice between two distinct propositions? When you vote for a candidate for President, do you not vote against some other candidate? Is not your choice free, untrammelled, to vote for A or to vote for B, as you choose?

What was the House proposition which we rejected, and for which the committee of conference recommend this amendment as a substitute? It was this: if you want the Lecompton constitution, take it; if you reject it, you have the liberty to make one for yourselves which will be satisfactory, and you are to proceed to do it. But this amendment says if you will take this constitution, which is known to be obnoxious, we will grant you so much land. I say, Mr. President, it is known by every form of procedure that becomes a free people, by the resolutions of conventions, by the memorials and resolutions of their Legislature, by the memorials of their civil officers, by a vote of the people at the polls; by every means, I repeat, which becomes a free people, Congress is historically advised to-day that the people of Kansas are uncompromisingly opposed to this instrument. Knowing that—yes, sir, there ought to be emphasis upon these words—*knowing that*, this committee amendment submits a land proposition which no man in Kansas, or here, disputes; and says, if thus induced, you vote for the land, you are under a constitution which you hate and despise.

Sir, it was noble, it was patriotic, it was becoming the great name and fame of the honorable Senator from Kentucky, (Mr. CRITTENDEN,) when he asked the Senate yesterday, what would Southern Senators say with this proposition reversed? If this were a free-State constitution, and had been rejected by the people of Kansas in all the forms in which this has been, and it should be now proposed to submit it to them in this mode, this despicable, trickish mode, is there a southern man in Congress who would vote for it? Not a man. I can say in the sincerity of my heart I wish to God that were the fact this day. If it were, I would stand here as I stand to-day; and so long as I am permitted to represent that intelligent and noble people living in the State of Michigan, I never will agree that there shall be one mode of proposing to a people for a slave-State, and another for a free-State constitution—never, sir, never. Is this self-government? Is this leaving the people of Kansas, in the language of the organic act, perfectly free to form and regulate their own domestic institu-

tions in their own way? Is this perfect freedom? What, then, I ask, would be perfect oppression? Sir, no man dare assert it. It is not pretended to be.

When that House bill was sent here, the Senator from Pennsylvania (Mr. BIGLER) made a speech against it. Speaking of the doctrine that Congress has always advocated, he said:

"An essential element in that doctrine is, that Congress will not interfere with the domestic affairs of the Territories; that as to the mode and manner of making a government, the people of the Territories should be unrestrained; that Congress would decide only upon the question of admission under the obligations of the Constitution, and that would be on the single point whether the government presented was republican in its form, and not as to the mode of making the constitution—leaving that work with the people."

He objected to this House proposition because it undertook to provide how the people of Kansas should make the next constitution if they rejected this one. Does not that objection apply with equal, and with greater force to this proposition? Speaking of this doctrine further, he says:

"Sir, that is the doctrine of the Democratic party, held by them because it is consistent with the Constitution, consistent with the true interests of this great country, and with the rights of all classes of the people and all sections of the Union.

"Now, sir, I regard the House proposition as direct and violent intervention, because it proposes to discard what the people have done, and to institute a new mode of proceeding. It proposes to set aside what the people of Kansas have done in the way of changing their government from a territorial to a State form, and to prescribe to them how they shall proceed hereafter in making a government."

That was the Senator's notion of intervention, and that was the basis of his objection to the House bill. He objects to the bill further, because it does not present the issue which he says exists in the State of Kansas. He says the issue in Kansas is the slavery issue; and that, by the House bill, they are not at liberty to vote upon it. Are they at liberty to vote upon it in this proposition? Hear his argument, sir. He quotes from the House amendment this clause:

"At the said election the vote shall be by ballot, and by indorsing on his ballot, as each voter may please, 'for the constitution,' or 'against the constitution.'"

He then says:

"That form you perceive, sir, would not present to the people of Kansas the great question at issue there, the question which has agitated the country from one extremity to the other; to wit: whether Kansas shall be a free or a slave State. Slavery is in the constitution as it stands, and the question thus presented would be, whether they would have a *slave State* or *no State* at all."

Those words, to make them emphatic in the Senator's speech, are italicized. He objects to the bill because it presents the question whether they will have a *slave State* or *no State* at all. Does not the proposition of the conference committee do that, too? He did not state the House proposition correctly, because the question presented there was, would they have the Lecompton constitution or have a new one made by themselves? but this proposition is the exact case stated by the honorable Senator from Pennsylvania. The question here presented to the people of Kansas is, will you have a constitution making a *slave State*, or *no State* at all; because Congress says in its bill, that if you do not accept this proposition, you shall have *no State* at all for an indefinite period of time.

Now he reasons:

"Those who desire it to be a free State would have no fair opportunity of carrying out their will. They are to be disfranchised on this vote."

Is not that this case, so far as human language can perfect it?

"They can have no voice. Now, sir, if this measure is to be adopted, the form of voting ought to be such as would give those people the opportunity of deciding, unembarrassed, the question of slavery which has harassed them from the first hour of their organization."

Is it not remarkable, Mr. President, that an honorable Senator who objected to the House proposition for these reasons, should be so suddenly transformed into an advocate for the proposition of this committee? On this occasion my honorable friend from Ohio (Mr. PUGH) also said something. He said:

"According to my apprehension of what is due to this case, the House amendment is utterly inadmissible. It is a violation, as I understand it, of every principle on which Congress can admit a new State; of every safe precedent; and a violation of every principle heretofore professed by the Democratic party of the United States. It is an unfair bill. It cannot make peace. It can make nothing but disturbance in Kansas, and everywhere else. I shall endeavor to sustain these propositions as the reason why, certainly to my own entire and perfect satisfaction, I shall vote against that bill at every hazard.

"The main idea of this proposition, or rather its pretension, is that the Congress of the United States remands the constitution of Kansas to a vote of the people and what for? Who authorized us to remand that constitution to a vote of the people?"

That is the question. Does the honorable Senator from Ohio say to-day, that this question is not remanded to Kansas for a vote of the people, which is to determine its fate?

MR. PUGH. By this bill?

MR. STUART. Yes, sir.

MR. PUGH. I say it is not.

MR. STUART. Very well, sir; that is precisely what I desire.

MR. PUGH. I not only say it is not remanded, but I would not vote for the bill if it did remand it.

MR. STUART. Precisely so. The Senator could not vote for it and make this speech. Now, sir, what was his objection? He asks in this most emphatic language: where do you get the authority to remand that constitution to Kansas for a vote of the people? Suppose the honorable Senator, as a member of this body, should be told to-day that here is a bill for the relief of John Jones, and the order of the Senate is, that as you vote upon that bill, so is your vote upon the deficiency bill; and it will be counted at the desk as such: will the honorable Senator tell me that that is no submission at all for the action of this Senate upon the deficiency bill?

MR. PUGH. I say it would be.

MR. STUART. You do not count it as it affects John Jones, but you count it as it affects the deficiency bill, or you count it for both. If you pass John Jones's bill, you pass the deficiency bill: if you reject John Jones's bill, you reject the deficiency bill. The Senator says that would be action upon the deficiency bill. Now, sir, you say to the people of Kansas, if you vote for this land, the President will proclaim you in the Union under the constitution made at Lecompton; if you vote against this land, it is to be taken as an expression of your will that you do not wish admission into the Union under the Lecompton constitution. That is the language of the bill, that is to be taken as an expression at the polls that you do not wish to be admitted into the Union under the Lecompton constitution.

MR. PUGH. I do not wish to interrupt the Senator more than a moment,

as I intend to reply, at some length to him, but I only wish to put in a caveat. That is not my interpretation of this bill at all.

MR. STUART. Well, Mr. President, fortunately that is one thing which the committee of conference has not left to interpretation. The amendment they propose states:

"But should a majority of the votes cast be for 'proposition rejected,' it shall be deemed and held that the people of Kansas do not desire admission into the Union with said constitution under the conditions set forth in said proposition."

Now, I say there is no room for interpretation; and it a little curious, Mr. President, to see what the effect of voting the other way is:

"Should a majority of the votes cast be for 'proposition accepted,' the President of the United States, as soon as the fact is duly made known to him, shall announce the same by proclamation, and thereafter, and without any further proceedings on the part of Congress, the admission of the State of Kansas into the Union upon an equal footing with the original States in all respects whatever shall be complete and absolute."

Mark you, sir, to vote for the "proposition accepted," does not say it shall then be deemed and held that you want to come in under this constitution—not at all, because that might stick in the throat of somebody there. It is carefully worded, therefore, to say that there is not the most indirect approval of the constitution, if you vote for the proposition; but if you vote against it, then it is to be deemed, and taken and held that you do want to come in under the Lecompton constitution, with the land attached. What further objection did my honorable friend make to that bill? He said:

"But, sir, that is not the worst of it. This House amendment does not, in truth, refer the constitution of Kansas back to the people of Kansas."

He says the House amendment does not do that. The Senator asks:

"Who are the people of Kansas—I mean the people authorized to vote for or against this constitution? The constitution defines them. One part of the constitution was submitted to the people; one part was ratified by every argument which men can receive; I mean the seventh article. That not only passed the convention, but it passed the vote of the people; and who were they? The constitution tells us:

"At which election the constitution framed by this convention shall be submitted to all the white male inhabitants of the Territory of Kansas in the said Territory upon that day, and over the age of twenty-one years, for ratification or rejection."

"They are the people of Kansas; they are the people defined by the constitution of Kansas; they are the body of electors to ratify or reject the constitution; and we have no right to substitute any other body of electors greater or less than that. Is the seventh article to be overturned by the vote of a larger or a smaller number than provided there? If so, we might as well unmake the whole constitution of Kansas. To whom does this amendment remit it? It provides"—

Now quoting from the amendment.

"SEC. 4. And be it further enacted, That, in the election hereby authorized, all white male inhabitants of said Territory, over the age of twenty-one years, who are legal voters, under the laws of the Territory of Kansas, and none others, shall be allowed to vote."

"What is the qualification for a voter under the territorial laws of Kansas? That he shall be a citizen of the United States, and shall have resided six months in the Territory."

My honorable friend objected to the House proposition because it submitted the fate of the constitution to a different body of electors than the constitution itself provided for.

MR. PUGH. Not submitted the fate of the constitution, but the constitution itself.

Mr. STUART. Is not that the fate of the constitution?

Mr. PUGH. The Senator must not interpolate words.

Mr. STUART. I am very willing to say "submit the constitution," if there is any distinction between the phrases.

Mr. PUGH. There is a vital distinction.

Mr. STUART. Then, because they submitted the constitution to a different body of electors—and the Senator affirmed that—they had no right to submit that constitution to a different body of voters from that body provided for in the constitution itself.

Mr. PUGH. I say so still.

Mr. STUART. Let me compare that with this case. The Senator concedes that the vote of the people, under this committee's amendment, on the land ordinance will determine the existence or non-existence of the constitution.

Mr. PUGH. Because it determines the question whether the State is admitted into the Union or not.

Mr. STUART. Precisely; I agree with him. It determined the fate of the question, whether Kansas comes into the Union with the Lecompton constitution or not. Now, what is the difference between saying that the vote shall be upon the constitution, and that it shall be upon the land; and as you vote on the land, so is the result counted on the constitution? Why, sir, it brings you back to my illustration. You do not tell the fish that you want him to agree to take the hook in his mouth. You only tell him you want him to swallow the bait; that is all.

There was another reason urged for passing this original Senate bill, which was entirely a political reason. It was said that it was all-important that this Kansas controversy should not be permitted to go into the next presidential election. Sir, the very effect of this bill is to carry it there, irresistibly and inevitably. What do you say? If you reject this constitution—and I have shown you, sir, that it is rejected already by the people of Kansas—you shall not make another until you have the requisite population for one member of the House; and that is to be ascertained by a census legally taken. How is a census legally taken? What is the law about taking the census? It is to be taken once in ten years. The next census will be taken in 1860, two years hence.

Mr. PUGH. Does the Senator mean to say that by the census spoken of in this bill is meant the decennial census?

Mr. STUART. I mean to say that it is a census legally taken.

Mr. PUGH. It can be taken by an act of the Territorial Legislature at any time.

Mr. STUART. I do not think that is so:

Mr. PUGH. Certainly it is; and that is a legal census.

Mr. STUART. That is not the bill.

Mr. PUGH. It is the bill.

Mr. STUART. I am perfectly willing to concede, for the sake of the argument, that it is the bill, though I say it is not. I say that if the Senator lives to see Kansas come back and ask admittance into the Union, he will find that those who are urging Lecompton to-day will contend that the language of this amendment means a census taken according to the existing laws. If he shall live to see that day, and I shall hold a seat in Congress at the time—

Mr. PUGH. I tell the Senator that it is utterly impossible, from the language of the amendment, that that could be so. If he will only read it

he will see it himself. The ratio of representation is fixed once in ten years.

Mr. STUART. I understand that perfectly well. It is conceded on all hands, that in Kansas there is not the necessary ratio now. It is conceded on all hands that there is not a population of ninety-three thousand four hundred there; nobody denies it. Then, when are you going to take another census? and when you get another census, will you not have another ratio? and is it not probable the next ratio will reach one hundred and twenty thousand?

But, sir, I am willing to take the Senator on the argument that it is a census to be taken by the authority of the Territorial Legislature; and then is he any better off? Has he got this question out of the presidential election? Does the Senator suppose that during the coming summer there will be the necessary population there? Not at all. If this question comes into the next Congress, it will be in the midst of the presidential canvass and controversy. The very business of the next Congress will be speech-making upon the subject of who shall be the President in 1860. So that you neither get it out of Congress nor out of the canvass of 1860; but you inevitably carry it into both.

One word more, sir, upon this doctrine of intervention. The Kansas act, says the President of the United States, is an enabling act; that that is a proposition too plain to be argued. It enables the people, says the Senator from Missouri, to proceed, in their own way and at their own time, to form a State constitution and be admitted into the Union. When you provide in this bill that they shall not proceed until they have the ratio of inhabitants; that they shall then proceed by an act of their Legislature, which act shall define how and when the constitution shall be submitted to the people; to that extent you repeal the organic act of Kansas, if the advocates of this measure are right. That is intervention, then, in its most obnoxious form; for you take from the people, according to the interpretation the President gives of the organic act, and the interpretation of most of his supporters on this question, the right that they now hold under that act.

Now, Mr. President, I desire to turn the attention of the Senate, for one moment, to what the Committee on Territories, when they reported the Senate bill, said on this question of population:

"Believing that the paper presented is the legal constitution of Kansas, that it is republican in its form, that the boundaries proposed by it are admissible, and conceding the sufficiency of the population, the committee recommend the admission of Kansas into the Union upon the constitution presented, and report a bill accordingly."

"Conceding the sufficiency of the population," said the Committee on Territories of the Senate. What do they say now? What does the Senator who acted as the chairman of that committee, and made that report in which he conceded the sufficiency of the population, say now? He says, inferentially, that it is very clear there is not a sufficient population in that Territory, and therefore you shall not proceed again to form a constitution until that is an ascertained fact.

One word, Mr. President, as to the argument of the Senator from Virginia in respect to his analogous cases. He quoted Iowa and Michigan as being cases analogous in principle to this one. Why, sir, in the first place, it never was pretended, by any man that I know of, that Congress had not full and unqualified power to fix the boundaries of a new State which is to

be carved out of our territory. I say that has never been a disputed question in Congress. The case of Michigan stood under the ordinance of 1787; and some of our people in Michigan contended that, by the ordinance of 1787, we had a right to the boundaries described in our territorial organization, and that, on account of the ordinance, Congress could not change it. I made an examination into that subject at that day, and I came to the conclusion, in an hour, that the ordinance of 1787 did not constitute an exception; that Congress had the sole and unlimited power to describe the boundaries of the new State carved out of our own territory when asking to be admitted into this Union.

But, sir, even if that is disputable, there was in the case of Iowa, and in the case of Michigan, an actual dispute existing. We were in a dispute with the State of Ohio, and Ohio and Michigan had their citizens under arms on this disputed boundary. In that condition of things, Michigan asking to be admitted into the Union, what did Congress do? Why sensibly, wisely, patriotically, they said: "We will not admit a new State into the Union, and at that instant create a bloody war between that State and Ohio as to where the actual boundary is; we have the power, and we will settle it now." Therefore, they said to us in Michigan: "You must by a convention of your people, agree to this boundary, and thereupon you shall be admitted." We did agree to it, and were admitted. But I say, again, there was an actual dispute as to boundary, but no objection to our constitution. Is there any dispute about this land donation of Kansas? Who is disputing it? Where does the man live? What is his name? There is no controversy about the land grant, but the people do object to the constitution. Then what becomes of the analogy? I have asked, and I beg leave to repeat the question, is it believed if this donation of land were submitted as a distinct, separate proposition to the people of Kansas that there would be a vote against it? Not one. What then ought to be the preamble to this amendment? In the first place, let us see what it is:

"Whereas the people of the Territory of Kansas did, by a convention of delegates assembled at Lecompton on the 7th day of November, 1857, for that purpose, form for themselves a constitution and State government, which constitution is republican; and whereas, at the same time and place, said convention did adopt an ordinance, which said ordinance asserts that Kansas, when admitted as a State, will have an undoubted right to tax the lands within her limits belonging to the United States, and proposes to relinquish said asserted rights if certain conditions, set forth in said ordinance be accepted and agreed to by the Congress of the United States; and whereas, the said constitution and ordinance have been presented to Congress by order of said convention, and admission of said Territory into the Union thereon as a State requested; and whereas, said ordinance is not acceptable to Congress, and it is desirable to ascertain whether the people of Kansas concur in the changes in said ordinance hereinafter stated, and desire admission into the Union as a State as herein proposed: Therefore, *"Be it enacted,"* &c.

Now, sir, is it desirable to ascertain that fact? The language of the preamble is:

"Whereas, it is desirable to ascertain whether the people of Kansas concur in the changes."

Have you any doubt about it? No man has. Sir, this ought to have been the preamble to this bill: "Whereas, the Lecompton convention formed a constitution which they knew was repugnant to the will and wishes of the people of Kansas, and knowing that, refused to submit it to them for ratification or rejection in fact, though they professed to, in form; whereas, that constitution has been presented to Congress, and whereas, the Senate has passed a bill to carry out the project of the Lecompton

convention, and whereas, a majority to aid in that purpose cannot be obtained in the House of Representatives, and whereas, the House insists that the will of the people shall be ascertained through a submission of this constitution to them, and whereas, the minority in the House can never be made to vote for a bill that does *directly* submit it, and it being therefore indispensable so to frame a bill that it may be called submission in one section of the Union, and non-submission in the other: Therefore, "*Be it enacted,*" &c.

That is this case, and that ought to be the preamble to this proposition, because it is the living truth to-day. Do you tell me, sir, that, if a majority of votes could have been obtained in the House of Representatives to the Senate bill, that you would have ever troubled yourself to ascertain whether the people would consent to modify this ordinance? What did your bill say? The second section said:

"Sec. 2. *And be it further enacted, That the State of Kansas is admitted into the Union upon the express condition that said State shall never interfere with the primary disposal of the public lands, or with any regulations which Congress may find necessary for securing the title in said lands to the bona fide purchaser and grantees thereof, or impose, or levy any tax, assessment, or imposition of any description whatever, upon them or other property of the United States within the limits of said State; and nothing in this act shall be construed as an assent by Congress to all or to any of the propositions or claims contained in the ordinance of the said constitution of the people of Kansas, nor to deprive the said State of Kansas of the same grants which were contained in the act of Congress entitled, 'An act to authorize the people of the Territory of Minnesota to form a constitution and State government,'*" &c.

And we amended that, on my motion, so as to refer to land grants hereafter to be made by Congress. Do you suppose, sir, that there is any man in Congress or in this broad Union so weak, so imbecile, so idiotic—who is out of an asylum—as to suppose that there is a reality in this preamble to the amendment of the conference committee, that that committee really doubted whether the people of Kansas would be willing to modify that claim? Why, sir, the people of Kansas never made it. I tell you again, that it was a trick of this Lecompton convention to ask for such an enormous grant, and to make the people believe that it might be obtained, as would keep them quiet under the fraud they were seeking to practice by the constitution they promulgated. That is it, and it is nothing else.

One word upon the general subject alluded to by the honorable Senator from Missouri, and I shall have done. He said, on introducing this report into the Senate, that it was not an amendment which was entirely satisfactory to anybody. Well, sir, I agree to that—it is not, and it ought not to be. But he says that he offers it as a measure of peace to the country on this distracting subject. Sir, upon the question of giving peace to the country upon this slavery question, I will go as far to-day, or any day, while I am honored with a seat here, as any other living man; I will go as far as he who goes farthest. But, Mr. President, peace, either in Kansas or among the States of this Union, can never be obtained except by straightforward, honest, fair legislation to all sections of the country. If Congress seeks to play a trick upon Kansas, the honest heart of the whole Republic will, involuntarily, revolt at it. That Congress in this amendment does seek by this device, this trick, to slide Kansas into the Union is too clear for disputation; for, as I said, without impugning, and with a design not to impugn, the motives of any man, this bill must be intended to mean what are the natural consequences of its language. It is, therefore, a bill

framed to enable certain men to vote for it upon the ground that it is a submission of the constitution of Kansas, and to enable certain other men to vote for it upon the ground that it is submission; and to cut men down in one section of the Union who vote against it because it is no submission, and to cut men down in another section of the Union who vote against it because it is submission.

Now, sir, it may be asked of me—if not here, it may be asked elsewhere—if I believe that this bill puts the subject of this constitution within the power of the people of Kansas, so that they can, as I believe they will, indignantly put their heel upon it, and thus destroy the monster—why do I oppose the measure? I oppose it upon the same ground that I would oppose an accumulation of property in a dishonorable way; I oppose it as I would oppose the reception of stolen property, knowing it to be stolen; I oppose it because it is unbecoming the magnanimity and generosity of a great people, and a Congress representing a great people; because, while in effect the people may destroy this constitution, those who report it, here to-day in their places have said that the constitution is not submitted; I oppose it, sir, upon higher principles than any possible personal consequences; I oppose it because it seeks to lay down in the admission of States into this Union one set of propositions for one character of States, and another set of propositions for a different character of States; I oppose it because, instead of giving peace to the country, which I most fervently desire, it will inevitably increase and promote excitement and discord throughout the Confederacy; and because it is in plain violation of the letter and spirit of the organic law of Kansas, and the true principles of self-government.

I have said, sir, and I beg leave to repeat it again from the very bottom of my heart, I wish to-day, in the settlement of this principle, that this Lecompton constitution was a free-State constitution, that it might be seen how indignantly the representatives of the North would despise, and condemn, and deride, and trample under foot such a proposition as this. Sir, I will never agree to any such unjust, despicable discrimination as is contained in this bill.

Sir, we are called upon to say to the people of Kansas, "if you will take this obnoxious constitution, you may come in now, at once, by the proclamation of the President—a constitution which we know is obnoxious to every impulse of your nature; but if you insist upon framing a constitution that is agreeable to your judgment and your wishes, you shall not come in until you have doubled your population;" and yet I am asked to vote for it. Why, sir, if it were submitted to me as the only alternative, and I were so borne down by oppression or under duress, that I was compelled to falsify all my opinions of constitutional authority, and take the naked Senate bill or take this thing, infinitely would I prefer the original Senate bill, because that does stand and can stand upon technical legal authority, if you choose to use that in opposition to the known will of the people. This can stand on nothing either human or divine. If you were to set it up and apply the commandment to it, you could not make it out heresy to worship it; for it is not like anything in the heavens above, or in the earth beneath, or the waters under the earth. It is an anomaly, a miserable, ingeniously-concocted pretence to smuggle through Congress, and fasten upon the necks of the people of Kansas, an obnoxious organic law.

There is a necessity for conciliation, for fair treatment, for peace among the States of the Union; and that course of policy is the easiest and simplest that man can devise. It is so plain, that the wayfaring man as he runs

may read and understand. It is simply to deal honestly, deal justly, deal fairly. Do unto the people of Kansas as you would, under similar circumstances, be done by—that is all. Do that; peace will reign throughout all your borders; every man in this broad land, under his own vine and fig-tree, can entertain such opinions as he chooses. But, sir, you continue to practice such frauds as the Lecompton convention inaugurated, such frauds as this bill is a bad imitation of, and you will spread danger and conflagration throughout this Union. If you will insist, as a Congress, upon being dishonest, partial, trickish, the time will not be far distant when a civil war will spread over this land, when you may be compelled, at midnight, to light your wife and your children into some possible place of safety by the flames of your dwelling. If, however, you will pursue the path of wisdom, of patriotism, this Union will cover the continent and the adjacent islands; it will be the mightiest Government that ever existed, or that ever can exist on the face of the earth. Under all its broad and benign influences, peace and happiness will be secured to the humblest individual, as well as to the remotest State. This is true, because it is the great moral law of the Creator of all things; no human power can ever change its action.